

Date: July 27, 2012

To: Thomas Bonfield, City Manager
Through: Keith Chadwell, Deputy City Manager
From: Kevin Dick, Director, Office of Economic and Workforce Development (OEWD)
Joy Mickle-Walker, Office of Economic and Workforce Development (OEWD)
Subject: Amendment to Assignment Agreement for the Durham Athletic Park (DAP) Operating Agreement

Executive Summary

This item is to recommend approval and execution of an amendment to the assignment agreement between the City of Durham and the Durham Bulls Baseball Club, Inc. ("Durham Bulls") for the operation of the Durham Athletic Park (DAP). The amendment to the assignment agreement would allow the City to extend the agreement from August 31, 2012 to September 30, 2013 and increase the operating fee by \$90,000.00 from \$23,333.36 to \$113,333.36 for an additional thirteen (13) months.

Recommendation

City staff recommends that City Council authorize the City Manager to execute an amendment to the Assignment Agreement with the Durham Bulls Baseball Club, Inc. extending the operation of the DAP an additional thirteen (13) months to September 30, 2013 for an operating fee of \$90,000.00. The recommended \$90,000.00 increase is based upon the following factors:

- Historical information from Minor League Baseball that indicated an approximate \$160,000 loss per year for the two year period they operated the DAP.
- Data over the last six months that indicates that an annualized operating loss may be incurred by the Durham Bulls as well.
- Although the Bulls are expected to incur losses they have achieved operational cost savings that enable them to operate the facility for less than Minor League Baseball.
- City budgetary constraints yielded that we could afford to add a maximum of \$90,000 for the extension of the agreement.

Background

MiLB approached the City in early 2007 with an interest in operating the DAP and establishing a Minor League Baseball Museum adjacent to the DAP. An operating agreement between the City and MiLB was approved by Council on August 8, 2007, and established responsibilities for the operations of the Durham Athletic Park. The

operating agreement went into effect on August 1, 2009 with an expiration date of August 31, 2012. The intention for the facility during the course of renovation and from the outset of the operating agreement was as a multi-use facility that would house baseball events, as well as multi-cultural events such as corporate picnics and musical events.

On October 30, 2009, an amendment to the agreement was executed with provisions related to certain day to day operations.

On September 1, 2011, MiLB conveyed its intentions to end the operating agreement on December 31, 2011. On November 28, MiLB sent a letter to the City requesting City approval to assign the operating agreement to the Durham Bulls Baseball Club.

The Assignment Agreement was approved by City Council on January 2012 with the Durham Bulls taking over operations of the DAP. Since then the Durham Bulls have operated the park and are now willing to extend their responsibilities to September 2013 with an increase in operating fees to offset current estimates of operating losses for the thirteen month term.

Issues/Analysis

The Durham Bulls have a familiarity with the local market for events as well as the maintenance requirements for a baseball stadium that meets NCAA Division One standards (two key aspects of DAP operations), that has helped them operate the park to an acceptable standard.

However consistent with the experience of the previous operator, the Durham Bulls have experienced financial losses in the operation of the DAP and it is anticipated that these losses will continue although not at the level MiLB experienced. In order for the park to be operated efficiently staff is recommending an increase in the operating fee paid by the City to the Durham Bulls. Although they have achieved cost savings in the day to day operations, their annualized losses necessitate an operating fee by \$90,000.00 from \$23,333.36 to \$113,333.36 for an additional thirteen (13) months.

OEWD is recommending an increase of \$90,000 based upon the following:

- Offsetting the approximate \$160,000 in annual operating losses would have yielded a \$13,333.36 increase per month in operating fee payments.
- It is estimated that the Bulls may lose \$140,000 through January 2013.
- Durham Bulls have achieved operational cost savings by a field supervisor position in house and using existing staff to manage the facility.
- Taking the cost savings methods by the Durham Bulls into account and considering City budgetary constraints OEWD is recommending a monthly operating fee increase of \$6,923.07 a difference of \$6409.63 in cost savings per month.

OEWD determined based upon experience in working with each operator has yielded the knowledge that the DAP cannot be operated with the city contribution of \$35,000 per year.

The thirteen (13) month extension is recommended instead of a twelve (12) month extension because it is anticipated that an operator would need to be in place in September 2013 to accommodate cultural events such as the Bull Durham Blues Festival.

The extension includes a sufficient amount of time to negotiate a longer operating agreement between the City of Durham and the Bulls to continue operations of the DAP. OEWD and the Bulls will work together with the goal of eliminating operating losses for the facility through such means as:

- The sale of additional sponsorships
- Finding financial assistance through other sources (i.e. grants) for upgrading equipment like a PA system which will make the facility more marketable.

OEWD seeks to create a long term partnership with the Bulls to operate the DAP and with that end, we will need to increase the operating fee in order maintain adequate operations of the facility.

Alternatives

City Council can choose to not approve the Amendment to the Assignment Agreement. This would leave the City of Durham without an Operator for the facility after August 31, 2012. Current resources do not exist within the City to operate the facility in its desired capacity as a multi-use facility available for baseball and multi-cultural events.

Financial Impact

The Assignment Agreement fee is increased from approximately \$2,916.67 per month (i.e., \$23,333.00 for a 12 month period) to approximately \$6,923.08 per month (i.e., \$90,000 for an additional thirteen (13) month period). The amount of \$29,617.67 will be coming from OEWD's Special Contractual Services budget. The remainder of \$84,166.66 will be taken from the Downtown Fund. The contract would be funded out of the DAP Operating Agreement account administered within OEWD.

SDBE Summary

SDBE provisions are contained in the operating agreement.

Exhibits

Exhibit A: Durham Athletic Park Operating Agreement
Exhibit B: Amendment 1 to DAP Operating Agreement
Exhibit C: DAP Assignment Agreement